

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:17CR56
)	
)	OBJECTIONS TO THE
Plaintiff,)	MAGISTRATE JUDGE’S
)	FINDINGS AND
v.)	RECOMMENDATIONS
)	
MATTHEW J. ROUSE,)	
)	
Defendant.)	

Defendant Matthew Rouse submits the following objections to the Magistrate Judge’s July 26, 2017, Findings and Recommendation in which he recommends that Rouse’s Motion to Dismiss be denied.

1. Rouse objects to the Magistrate Judge’s conclusion that the images involved in this case are not protected by the First Amendment. Because B.A. has reached the age of consent, the video recordings of her sexual conduct with Rouse document no crime. The child-protection rationale that typically anchors prohibitions on child pornography is not applicable, and there are no similarly compelling reasons to justify criminalizing these non-obscene images. The visual depictions are therefore constitutionally-protected speech.

2. Rouse objects to the Magistrate Judge’s conclusion that Rouse’s documentation of consensual, noncriminal sexual conduct is not protected by the Due Process Clause of the Fifth Amendment. Rouse’s right to cultivate a consensual

sexual relationship is a fundamental right to privacy that does not change simply because that relationship involves a minor, at least if the minor has reached the age of consent. That right to privacy that cannot be infringed absent a compelling state interest. No such interest has been advanced in this case. This prosecution therefore violates Rouse's Fifth Amendment rights.

Rouse has filed with these Objections a Brief which explains more fully the legal bases for his arguments. For the reasons stated here and in that Brief, Rouse asks that the Court sustain his Objections and dismiss the Indictment against him.

MATTHEW J. ROUSE, Defendant,

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Certificate of Service

I hereby certify that on September 8, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

s/ Michael F. Maloney